IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.113 OF 1999

The Commissioner of Income Tax
Pune .. Applicant.
V/s.
Bhima SSK Ltd., Patas .. Respondent.

Mr.Ashok Kotangale with Mr.Parag Vyas
for the applicant.

Mr.Pramod Vaidya i/b. S.N. Inamdar
for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 24TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case the ITAT relying on the decision of its Special Bench in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 - AT) was right in deleting the following additions by holding that the various funds/deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee ?

	Assessment years.		
	1986-87	1987-88	1988-89
Non-refundable deposits	1426005	3233288	2140560
Refundable dep.	207720	826943	1034790
Jankalyan Nidhi	435471	-	-
Cane Dev. fund	870936	1199532	1270360

Late Y.B. Chavan Memo. fund	217734	-	-
C.M. Fund	487866	149941	158796
Housing Scheme	108080	149941	158796
Small sav. scheme	22080	81650	-
Int.on NRD/RD	1535471	2100658	2776342
Scarcity rel. fund	-	599564	631180

2. In so far as all other items except Jankalyan Nidhi, cane development fund and housing scheme for all the assessment years are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Jankalyan Nidhi, Cane Development Fund and housing scheme for all the assessment years are concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)